

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DONALD R. PHILLIPS, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 4:07CV00521 ERW  
 )  
TROY STEELE, )  
 )  
Respondent.<sup>1</sup> )

**MEMORANDUM AND ORDER**

This matter is before the Court upon the Report and Recommendation of United States Magistrate Frederick R. Buckles [doc. #35], pursuant to 28 U.S.C. § 636(b). The Court notes that no objections were filed to the Report and Recommendation. After full consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate's Report and Recommendation.

In addition, a certificate of appealability may only be issued when "the applicant has made a substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *see also Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006). Petitioner has made no such showing. Furthermore, the Court does not believe that reasonable jurists might find the Court's decision debatable or wrong, for purposes of issuing a certificate of appealability under 28 U.S.C. § 2253(c)(1)(A). *See Slack*, 529 U.S. at 483-84. Therefore, the Court shall not issue a certificate of appealability as to any claim raised in the Petition.

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<sup>1</sup>Because Petitioner is challenging a sentence to be served in the future, Missouri Attorney General Chris Koster is hereby added as a proper party respondent. *See Rule 2(a), (b), Rules Governing Section 2254 Cases in the United States District Courts.*

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner Donald R. Phillips' Petition for Writ of Habeas Corpus [doc. #1] is **DENIED**.

**IT IS FURTHER ORDERED** that a Certificate of Appealability is **DENIED**.

Dated this 24th Day of February, 2010.



E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE